

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

05/20/2002

CLERK OF THE COURT  
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza  
Deputy

LC 2001-000333

FILED: \_\_\_\_\_

STATE OF ARIZONA

JEFFREY A ZICK

v.

GEORGE WILLIAMS

DAVID C KENNEDY

DISPOSITION CLERK-CSC  
REMAND DESK CR-CCC  
SCOTTSDALE CITY COURT

MINUTE ENTRY

SCOTTSDALE CITY COURT

Cit. No. CR00-011841MI/CR00-1433MI

This Court has jurisdiction of this Civil Appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the trial Court, exhibits made of record and the Memoranda submitted.

Appellant raises issues of constitutional dimension and statutory construction. In matters of statutory interpretation,

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the standard of review is *de novo*.<sup>1</sup> However, the appellate court does not reweigh evidence.<sup>2</sup> Instead, the evidence is reviewed in a light most favorable to affirming the lower court's ruling.<sup>3</sup> Appellate courts must also review the constitutionality of a statute *de novo*.<sup>4</sup>

It is clear that the Legislature may not disturb vested substantive rights by retroactively changing the law that applies to completed events. Nor may it change the legal consequences of events completed before a statute's enactment.<sup>5</sup> Retroactive application of a criminal statute violates the *ex post facto* clauses of the State and Federal Constitutions.<sup>6</sup>

The retroactive application of the 2000 amendment (re-enacted provisions of the 1999 amendment) would certainly change the legal consequences of events completed before the statute's enactment. Also, the fact that the punishment would be changed and a greater punishment would be inflicted if the defendant were subject to the 2000 amendment, clearly violates the *ex post facto* clauses of the State and Federal Constitutions.

IT IS THEREFORE ORDERED reversing the judgement of the lower court.

IT IS FURTHER ORDERED dismissing the complaint in this case.

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<sup>1</sup> *In re: Kyle M.*, 200 Ariz. 447, 449-50, 27 P.3d 804, 805-6 (App. 2001). See also, *State v. Jensen*, 193 Ariz. 105, 970 P.2d 937 (App. 1998).

<sup>2</sup> *Id.*

<sup>3</sup> *Kyle M.*, 200 Ariz. at 448, 27 P.3d at 805; *State v. Fulminate*, 193 Ariz. 485, 492-3, 975 P.2d 75, 82-83 (1999).

<sup>4</sup> *McGovern v. McGovern*, No. D-125189, 2001 WL 1198983, at 2 (Ariz. App. Div. 2 Oct. 11, 2001); *Ramirez v. Health Partners of Southern Arizona*, 193 Ariz. 325 330-31, 972 P.2d 658, 663-64 (App. 1998).

<sup>5</sup> *State v. Murray*, 194 Ariz. 373, 375, 982 P.2d 1287, 1289 (1999); See *San Carlos Apache Tribe v. Superior Court*, 193 Ariz. 195, 205, 972 P.2d 179, 189 (1999).

<sup>6</sup> *In re Shane B.*, 194 Ariz. 221, 979 P.2d 1014 (App. 1998); See *Arizona Dept. of Public Safety v. Superior Court*, 190 Ariz. 490, 949 P.2d 983 (App. 1997); *Saucedo v. Superior Court*, 190 Ariz. 226, 946 P.2d 908 (App. 1997).

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JUDICIAL OFFICER OF THE SUPERIOR COURT